

NATIONAL SECURITY RESOURCES BOARD

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STATINTL

August 25, 1948

OGC HAS REVIEWED.

SUBJECT: EMPLOYMENT OF INDIVIDUALS ON PERSONAL SERVICE CONTRACT

Section 1. Purpose:

.01 The purpose of this instruction is to cite certain legal provisions governing the employment of experts and consultants on personal service contract, to set forth certain requirements governing the compensation, leave and travel of such individuals, and to prescribe the Personal Service Contract form to be used by the National Security Resources Board.

Section 2. Legal Authority:

P.L. 600 .01 Section 15 of the Act of August 2, 1946 (5 U.S.C. 55a) states:

"The head of any department, when authorized in an appropriation or other Act, may procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, and in such cases such service shall be without regard to the civil-service and classification laws (but as to agencies subject to the Classification Act at rates not in excess of the per diem equivalent of the highest rate payable under the Classification Act, unless other rates are specifically provided in the appropriation or other law) and, except in the case of stenographic reporting services by organizations, without regard to section 3709, Revised Statutes, as amended by this Act."

.02 Section 303(a) of the National Security Act of 1947 (Public Law 253, approved July 26, 1947) states:

"The Secretary of Defense, the Chairman of the National Security Resources Board, and the Director of Central Intelligence are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation while serving as members of such committees shall receive no additional compensation for such service. Other members of such committees and other part-time advisory personnel so employed may serve without

- 2 -

compensation or may receive compensation at a rate not to exceed \$35 for each day of service, as determined by the appointing authority."

.03 The Fiscal Year 1949 Appropriation Act of the National Security Resources Board (Public Law 766, approved June 24, 1948), states:

"Salaries and expenses: For *****services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), at rates for individuals not in excess of \$50.00 per diem; *****Provided, That notwithstanding the limitation contained in section 303(a) of the National Security Act of 1947 (Public Law 253, approved July 26, 1947) members of advisory committees and part-time advisory personnel may be appointed by the Chairman of the Board at rates for individuals not exceeding \$50.00 per diem."

Section 3. Experts and Consultants:

.01 Section 15 of the Act of August 2, 1946, quoted in Section 2.01 hereof, refers to experts and consultants. These are defined as follows:

1. An expert is an employee performing duties requiring the services of a person exceptionally qualified by education and experience in a particular line to perform a service peculiarly required to accomplish the statutory purposes of the employing agency, and who is not, generally, obtainable under the Civil Service laws and Regulations. Experts may exercise administrative and supervisory functions.
2. A consultant is an employee serving the Government in an advisory capacity only, as distinguished from one who performs the statutory duties and responsibilities of the employing agency. Consultants are precluded from assuming any administrative or supervisory responsibilities. Members of advisory committees employed on a per diem basis will be designated as consultants in personal service contracts.

.02 The employment of consultants and experts is not authorized in order to evade Civil Service regulations by assigning to such personnel duties which could be performed in a regularly classified position. The clear intent of the law is to make available to the Government highly specialized services which normally would not be rendered by employees in classified positions.

- 3 -

Section 4. Temporary, Part-Time and Intermittent:

.01 The employment of experts and consultants under personal service contract falls into three distinct categories, i.e. temporary, part-time and intermittent.

1. A temporary employee serves for a definite period of time not exceeding one year. Temporary employees serve full time during the period for which they are employed.
2. A part-time employee serves for a definite portion of each day, week or month.
3. An intermittent employee performs services for short, irregular periods, none of which extends for a full calendar month. The duration of the contract may encompass several short periods of duty. Should an intermittent employee serve continuously for a period in excess of one month, he becomes a temporary employee.

Section 5. Compensation:

.01 The maximum rate of compensation which can be paid experts and consultants engaged under personal service contract is \$50 per diem, as stated in the 1949 Appropriation Act of the National Security Resources Board quoted in Section 2.03 hereof. The rate to be paid in a given case should correspond closely to that paid employees for work of like responsibility. The Personnel Office will maintain a pay schedule covering the employment of consultants and experts which will be based on the duties to be performed. No commitments should be made regarding the rate of pay to be assigned in an individual instance, without prior consultation with the Personnel Office. The rate of pay in every case is subject to final approval of the Chairman.

N.P. → .02 Consultants and experts shall be paid only for the time when actually employed. They are not entitled to overtime or night differential payments. When work is performed on holidays or non-work days, they will receive their regular daily rate.

.03 Consultants and experts are not subject to the \$10,330 annual salary limitation for classified employees.

.04 Payment of compensation at the rate specified less any deductions required by law will be made on bi-weekly payrolls supported by time statements, showing the time worked during the pay period, signed by the contract employee and approved by the official to whom he is responsible.

- 4 -

Section 6. Leave:

.01 Consultants and experts who fall into the temporary category will accrue annual and sick leave in accordance with the leave regulations applicable to all temporary-limited employees.

.02 Consultants and experts who fall into the part-time or intermittent category will not accrue annual or sick leave.

.03 Experts and consultants serving under intermittent or part-time contracts who work a sufficient number of consecutive days to normally entitle them to accrue leave will automatically become temporary employees and new contracts will be executed on that basis.

Section 7. Travel and Subsistence:

.01 All consultants and experts are entitled to travel expenses and \$6.00 per diem subsistence, in accordance with the Standard Government Travel Regulations, when traveling on government business under official travel authorization.

.02 Intermittent contract employees, only, are entitled to travel expenses when traveling between their homes or places of business and the headquarters of the National Security Resources Board, and to \$6.00 per diem in lieu of subsistence for each day, including Saturdays, Sundays and holidays, that they are away from their residences or places of business on NSRB duty. This is in accordance with Section 5 of the Act of August 2, 1946 (5 U.S.C., 73b-2), which provides that:

"Persons in the Government service employed intermittently as consultants or experts and receiving compensation on a per diem when actually employed basis may be allowed travel expenses while away from their homes or regular places of business, including per diem in lieu of subsistence while at place of such employment, in accordance with the Standardized Government Travel Regulations, Subsistence Expense Act of 1926, as amended (5 U.S.C. 821-833), and the Act of February 14, 1931, as amended by this Act, ***."

Section 8. Employment Procedure:

.01 The employment procedure to be followed in processing executive personnel actions, including executive personnel to be employed under contract, is set forth in Administrative Instruction No. 4. In the case of employment of personnel on contract who would not be considered to be in the executive personnel area, the identical procedure to that prescribed for contract employment in Administrative Instruction No. 4 will be followed.

-5-


Section 9. Contract Form:

.01 Personal Service Contract, Form NSRB 3, shall be used in the case of all contracts for compensated personal services entered into between the National Security Resources Board and experts and consultants.

Section 10. Effective Date:

.01 This instruction is effective September 1, 1948.

STATINTL


Administrative Officer